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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,152	03/05/2002	Simon J. Porter	H0003706 (4760)	5937

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EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/091,152	Applicant(s) PORTER ET AL.	
	Examiner Marc A Patterson	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 29 – 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase ‘a sealant film’ is indefinite as its meaning is unclear. For purposes of examination, it will be assumed that the phrase refers to a film which is sealable. It is also unclear which layer of the claimed film is actually sealed when sealing takes place, and which layer is bonded to the nylon 6 film. The structure of the entire multilayer film is therefore unclear. For purposes of examination, it will be assumed that the film is any film comprising at least on nylon layer and at least one ethylene vinyl alcohol layer, coated with silicone oil and having a sealable polyethylene layer which contains an antifogging agent. The submission of at least one drawing is suggested , provided that the drawing contains no new matter.

3. Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase ‘may comprise’ is indefinite as it is unclear whether the nylon film comprises a single nylon layer or two nylon layers and an ethylene vinyl alcohol layer. For purposes of examination, it will be assumed that the nylon film comprises a single nylon layer.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 29 – 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walton et al (U.S. Patent No. 5,591,390) in view of Japanese Patent No. 10110096.

With regard to Claims 29, 31 – 33 and 37, Walton et al disclose a polyethylene film (packaging film; column 8, lines 49 – 61) comprising an antifogging agent (column 9, lines 25 – 32) and coated on its surfaces with silicone oil (a silicone coating to reduce friction, therefore a surface active lubricant comprising polydimethylsiloxane; column 9, lines 12 – 20; column 19, lines 20 – 25). Walton et al also teach that the film is equivalent to a film comprising at least one nylon layer and at least one ethylene vinyl alcohol layer bonded together by adhesive layers, with the polyethylene layer as an outermost seal layer (column 14, lines 66 – 67; column 15, lines 3 – 20). The claimed aspect of a nylon layer having its surface coated with silicone oil therefore reads on Walton et al. Walton et al fail to disclose a nylon which comprises nylon 6.

Japanese Patent No. 10110096 teaches the use of nylon 6 in the making of a packaging film for the purpose of obtaining a film having improved mechanical strength (English Abstract; Advantage). The desirability of providing for nylon 6 Walton et al, which is a packaging film, would therefore be obvious to one of ordinary skill in the art.

It therefore would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to have provided for nylon 6 in Walton et al in order to obtain a film having improved mechanical strength as taught by Japanese Patent No. 10110096.

With regard to Claim 30, the scope of the claims falls within the limitations of Walton et al and Japanese Patent No. 10110096 as discussed above. The method of making the film (product – by – process) is given little patentable weight.

With regard to Claim 34, the polyethylene disclosed by Walton et al comprises linear low density polyethylene (column 3, line 61 – 67).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.
Marc Patterson
Art Unit 1772

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
HP

10/18/03